


OFFICE OF THE
 ATTORNEY GENERAL OF TEXAS

Crime Victims' Compensation

General Overview



**Crime Victim Services
Mission Statement**

To assist in the compassionate and effective delivery of crime victim services by offering information, resources, and financial assistance to crime victims and the organizations assisting them.



Enabling Legislation

- ▶ Texas Code of Criminal Procedure
- ▶ Article 56 subchapter B
- ▶ Article 56.31 through 56.64
- ▶ Crime Victims' Compensation Act



CVC Mandates (Slide 1 of 2)

- ▶ A victim has the **RIGHT** to request and receive information about Crime Victims' Compensation.
- ▶ Texas Code of Criminal Procedure, Article 56.02 (a)(6) and TFC, 7.002(6)



CVC Mandates (Slide 2 of 2)

- ▶ T.C.C.P. Art. 56.07 Law Enforcement Mandate
 - Initial contact with victim
 - Written notice
- ▶ T.C.C.P. Art. 56.08 District and County Attorneys
 - 10-day written notice
 - Assistance with application
- ▶ T.C.C.P. Art. 56.60 Public Notice
 - Posters in hospital emergency rooms



CVC Goal

- ▶ The goal of CVC is to reimburse victims of crime for certain out-of-pocket expenses not reimbursed by other sources.
- ▶ The Office of the Attorney General shall award to victims and claimants compensation for pecuniary loss arising from criminally injurious conduct.



CVC Funding

- ▶ It is not a tax-based or general-revenue-funded program. No tax dollars are used.
- ▶ Sources of funding in FY 2013 were:
 - Court fees
 - Federal VOCA grant
 - Restitution
 - Subrogation
 - Other receipts
 - Gifts



Restitution

- ▶ CVC pays benefits to an eligible victim
- ▶ At some point, an offender is apprehended and convicted
- ▶ At sentencing, the judge can order the defendant to pay restitution to the CVC Fund for what the victim was paid in eligible benefits.



Subrogation

- ▶ CVC pays benefits to, or on behalf of, a victim.
- ▶ Victim files and wins a civil lawsuit for damages or receives a settlement from perpetrator.
- ▶ Victim reimburses funds to CVC for lawsuits and settlements related to the crime.
- ▶ Victim and *his/her attorney* are subject to prosecution for failure to notify CVC.



Payer of Last Resort

- ▶ All collateral sources must pay first:
 - Medicaid
 - Health insurance
 - Medicare
 - Texas Workers' Compensation
 - Auto insurance



CVC Fiscal Year 2013 Summary

- ▶ \$61.2 million in payments
- ▶ Received a total of 28,585 applications and sexual assault exam reimbursement claims
 - 20,008 were victim compensation applications
 - 8,577 were sexual assault reimbursement claims



Victim

Who is a victim?

- ▶ An individual who suffers physical or mental harm or death as a result of criminally injurious conduct
- ▶ Note that every application has to have one victim, and only one victim
- ▶ Includes peace officers, firefighters or individuals whose employment duty is to protect the public



Claimant

Who is a claimant?

- ▶ An authorized individual acting on behalf of a victim
- ▶ An individual who legally or voluntarily assumes the obligation to pay expenses
- ▶ A dependent of a deceased victim
- ▶ An immediate family or household member who requires psychiatric care or counseling
- ▶ An application can have multiple claimants, but only one victim



Eligibility (Slide 1 of 2)

Who is eligible to receive CVC?

- ▶ A Texas or U.S. RESIDENT who becomes a victim of crime in Texas
- ▶ A Texas resident who becomes a victim in a country with no benefits
- ▶ A Texas resident who becomes a victim of a crime defined as an act of terrorism committed outside the United States (as of 9/1/97)



Eligibility (Slide 2 of 2)

- ▶ A Social Security number is not required for a victim to apply and be eligible for the CVC Program.
- ▶ A tax ID or Social Security number is a requirement to receive a payment.



Criminally Injurious Conduct

"Criminally injurious conduct" refers to crimes that:

- ▶ Are attempted or occur
- ▶ Pose a substantial threat of personal injury
- ▶ Would be punishable by fine or imprisonment



CIC Crimes Eligible for Reimbursement

- ▶ Criminal injurious conduct (CIC) crimes are violent crimes against persons.
- ▶ CIC crimes range from simple assault to homicide, and include such crimes as family violence and child sexual assault.
- ▶ CIC vehicular related crimes are:
 - Crimes of intentional injury with an automobile, boat or plane
 - Failure to stop and render aid (hit and run)
 - Vehicular crimes involving drugs or alcohol
 - Intoxication-related crimes (assault, manslaughter or criminally negligent homicide)



Denial or Reduction Behavior Factors

- ▶ If the person
 - Was engaged in illegal activity (deny or reduce)
 - Shares in the responsibility for the crime (deny or reduce)
 - Fails to cooperate with law enforcement and prosecution efforts (deny)
- ▶ Possible factors, entire situation is reviewed



However...

- ▶ There is no requirement that a suspect be

- Identified
- Apprehended
- Charged
- Convicted

...for a victim to apply for and be awarded compensation.

- ▶ There is a requirement for the victim to cooperate throughout the criminal justice process.



CVC Reporting Requirements

- ▶ Reporting the crime to law enforcement
 - 72 hours prior to 9/1/97
 - On or after 9/1/97, a reasonable period of time, but not so late as to interfere with or hamper the investigation and prosecution
- ▶ The program has the discretion
 - The victim is a child
 - Extraordinary circumstances hampered the reporting



CVC Filing Requirements

- ▶ Filing requirements to CVC program
 - Prior to 9/1/97, one year
 - On or after 9/1/97, three years
- ▶ Exceptions
 - Good cause
 - Child victim through age 18 (pre-1997)
 - Child victim age 18 to 21 (1997-present)
 - Victim physically incapacitated



Awards

- ▶ Up to:
 - \$25,000 for crimes prior to 9/1/97
 - \$50,000 for crimes on or after 9/1/97
- ▶ For reimbursement of medical costs, counseling, lost wages, funeral costs, and other costs resulting from the crime
- ▶ Does not include property loss or damage



Award Types

- ▶ Medical (includes psychiatric care/counseling and dental)
- ▶ Loss of earnings
- ▶ Loss of support
- ▶ Funeral and burial
- ▶ Relocation and rental
- ▶ Child or dependent care
- ▶ Crime scene clean-up
- ▶ Property seized as evidence
- ▶ Travel



Medical Expenses (Slide 1 of 2)

Includes:

- ▶ Hospital expenses
- ▶ Doctors' fees
- ▶ Prescriptions
- ▶ Emergency room
- ▶ Ambulance
- ▶ X-rays
- ▶ Rehabilitation
- ▶ Nursing home
- ▶ Dental



Medical Expenses (Slide 2 of 2)

- ▶ Medical expenses are paid according to the Division of Worker's Compensation medical fee guidelines and are based on the dates of services rendered.
- ▶ The victim is not responsible for the difference, unless the victim had benefits reduced or the claim is found to be a "med max."
- ▶ Medical expenses are only limited by the funding available in the claim.
- ▶ Reimbursements for medical expenses must be submitted within five years of the date of service, unless extenuating circumstances exist.



Mental Health

- ▶ Inpatient psychiatric care or counseling
 - Victim only
 - \$600 per day
 - Maximum 30-day stay
 - Should be pre-authorized
- ▶ Outpatient psychiatric care or counseling
 - \$3,000 victim
 - \$3,000 claimant



CVC Eligible Mental Health Providers

- ▶ Eligible providers must be licensed mental health providers limited to the following professions:
 - Psychiatrist, and other M.D.
 - Clinical Psychologist
 - Clinical Nurse Specialists in Psychiatry (CNS)
 - Licensed Professional Counselor (LPC)
 - Licensed Marriage and Family Therapist (LMFT)
 - Licensed Clinical Social Worker (LCSW)
- ▶ CVC does not make referrals to victims seeking treatment; they are referred to their local resources.



Loss of Earnings (Slide 1 of 2)

- ▶ Lost wages related to *medical*:
 - Physical or emotional disability
 - While seeking medical treatment for crime-related injury
 - Care for a medically incapacitated adult/minor child by claimant
- ▶ Lost wages related to the *criminal justice system*:
 - Police investigation appointments
 - Protective order court appointment
 - Criminal proceedings
 - Post-conviction
 - Post-adjudication proceedings (executions)
- ▶ Lost wages related to victim's *funeral*



Loss of Earnings (Slide 2 of 2)

- ▶ If employed, weekly net earnings are multiplied by the disability period.
- ▶ Limited to \$500 per week
- ▶ If unemployed, CVC will consider situations that demonstrate the victim would have been employable. Benefits would be based on anticipated loss of future earnings.



Loss of Support

- ▶ To dependents of a murder victim
 - Up to \$50,000
- ▶ To dependents of surviving victims
 - Usually family violence
 - Limited to 90 days
- ▶ To dependents of a medically disabled victim
 - During disability period
- ▶ Limited to \$500 per week
- ▶ Verification of dependency, support lost and collateral sources



Funeral and Burial

- ▶ Funeral and burial expenses maximum of \$4,500
- ▶ Additional funds available to transport the body
- ▶ What is covered:
 - Funeral services
 - Casket, urn
 - Graveside services
 - Cemetery expenses
 - Marker/headstone
 - Cremation charges
 - Additional costs such as flowers, burial clothing for the deceased, exhumation and reburial



Relocation

- ▶ For victims of family violence (6/19/99)
- ▶ For victims of sexual assault in their residence (9/1/2001)
- ▶ \$3,800 total benefit
 - Up to \$2,000 for applicable relocation costs:
 - Transportation
 - Deposits and fees
 - Moving van and storage
 - Three months rent up to \$1,800
- ▶ One-time award



Child or Dependent Care

- ▶ Only available as a NEW EXPENSE resulting from the crime
- ▶ Children (14 years and under) or dependent adults
- ▶ Care must be provided by licensed or registered provider
- ▶ \$100 per week per child or dependent
 - Crime dates after 5/7/2005, child care is limited to 90 days
 - 90-day child care exception for dependants of deceased victims



Crime Scene Clean-Up

- ▶ Reasonable and necessary costs of cleaning the crime scene
- ▶ \$750 limit
- ▶ Commercial cleaning company
- ▶ Will reimburse for cleaning supplies when work is done by volunteers



Property Seized as Evidence

- ▶ Reasonable replacement costs for clothing, bedding, or property of the victim seized as evidence or rendered unusable as a result of the criminal investigation
- ▶ \$750 limit
- ▶ This is the only property for which reimbursement can be paid by CVC.



Travel (Slide 1 of 2)

- ▶ Travel expenses due to participation in or attendance at:
 - The investigation prosecution, or judicial processes; also post-conviction and post-adjudication-involvement
 - The execution of the perpetrator
 - Seeking necessary medical treatment and counseling services
 - The funeral of the victim for immediate family and household members



Travel (Slide 2 of 2)

- ▶ Exceeds 20 miles (one way)
 - Necessary and reasonable transportation
 - Commercial transportation
 - Personal vehicle / state mileage reimbursement rate
- ▶ Exceeds 60 miles (one way)
 - Meals and lodging expenses
 - Meals and lodging are per diem state rate
 - Commercial transportation
 - Personal vehicle / state mileage reimbursement rate
- ▶ Different travel rates apply for different years and are based on the state rate at the time.



Catastrophic Injuries

- ▶ Catastrophic injury is a total and permanent disability.
- ▶ Above the base award, catastrophic benefits are
 - Additional \$25,000
(for crimes occurring September 1995-97)
 - Additional \$50,000
(for crimes occurring on or after Sept. 1, 1997 to Aug. 31, 2001)
 - Additional \$75,000
(for crimes occurring on or after Sept. 1, 2001)



Catastrophic Injuries Total and Permanent Disability

- ▶ Durable medical equipment (Sept. 1, 2001)
- ▶ Rehabilitation technology (Sept. 1, 2001)
- ▶ Long-term medical expenses (Sept. 1, 2001)
- ▶ Home and vehicle wheelchair accessible
- ▶ Rehabilitation
- ▶ Lost wages
- ▶ Job training
- ▶ Home health care
- ▶ Training in the use of special appliances



Appeals Process

- ▶ The victim or claimant has the right to appeal a decision (eligibility or awards)
 - Reconsideration
 - Final Ruling Hearing
 - District Court



Claim Closure Due to Fraud (Slide 1 of 3)

- ▶ **Texas Code of Criminal Procedure, Article 56.41 (b)(7)**
(b) The attorney general shall deny an application for compensation under this subchapter if: (7) the claimant or victim knowingly or intentionally submits false or forged information to the attorney general.
- ▶ **Texas Code of Criminal Procedure, Article 56.38 (b)**
The attorney general may investigate an application.
- ▶ **Texas Code of Criminal Procedure, Article 56.47(a)**
The attorney general, on the attorney general's own motion, or on request of a claimant or victim, may reconsider;
 - (1) a decision to make or deny an awards; or
 - (2) the amount of the award



Claim Closure Due to Fraud (Slide 2 of 3)

- ▶ Lost wages

Scenario 1

- Victim was awarded lost wages.
- CVC received information that victim submitted two false employment verification documents and also forged HR Director's signature to falsely show they were employed.
- Victim was charged and arrested for tampering with a governmental record.

Scenario 2

- Victim submitted false medical documentation in order to continuing receiving lost wages.
- Victim, a nurse, had been terminated from his/her job due to felony forgery convictions, but falsely indicated that it was due to a crime-related injury.



Claim Closure Due to Fraud (Slide 3 of 3)

► Relocation

Scenario 1

- Victim awarded relocation but claimed she never received the check.
- CVC processed a stop payment and issued a 2nd check.
- Comptroller's records revealed both checks had been cashed.
- Victim was charged with theft.

Scenario 2

- Victim submitted a falsified lease.
- CVC called apartment complex and was advised victim was not approved.
- Victim was charged with tampering with a governmental record.



CVC Claims Management System (Slide 1 of 2)

- Claims Management System (CMS) is also referred to as Remote Users Access.
- CMS is a tool applicable users can access to view basic CVC claim information via the Internet.
- There are three levels of security access to CMS:
 - Service Providers
 - Law Enforcement
 - Non-Profit Victim Advocates



CVC Claims Management System (Slide 2 of 2)

- All CMS users are able to view general case information.
- Service provider accounts allow the user to view only those claims for which they have provided services based on their tax ID.
- Law enforcement and advocate accounts allow the user to view general billing information and case notes.



OAG Website for CVC

- ▶ OAG website for Crime Victim's Compensation
 - www.oag.state.tx.us/victims/index.shtml
- ▶ What is available on the CVC website?
 - General program information
 - Basic qualification requirements
 - Reimbursable expenses
 - How to apply
 - Forms and applications
 - Appealing a denial
 - Remote User / Claims Management System
 - Information for service providers
 - Publications and materials order
 - Training



Sexual Assault Exam Reimbursement

- ▶ Reimburse law enforcement for the reasonable costs of a sexual assault examination of a victim
- ▶ Full details and application at OAG website
- ▶ A separate claims process from victim CVC claim
- ▶ Contact person: Juanita Sepeda (512) 936-1246



Address Confidentiality Program

- ▶ Texas Code of Criminal Procedure Articles 56.81-56.93
- ▶ ACP assists victims of family violence, sexual assault and stalking, aiding in effort to keep victim's address confidential.
- ▶ Works in conjunction with victim's existing safety plan
- ▶ For more information contact:
Office of the Attorney General
Address Confidentiality Program (ACP)
P.O. Box 12199 MC Program
Austin, Texas 78711-2199
crimevictims@texasattorneygeneral.gov
(512) 936-1750
(888) 832-2322



For More Information

Office of the Attorney General
Crime Victim Services Division

CVC Program
P.O. Box 12198
Austin, TX 78711-2198
www.TexasAttorneyGeneral.gov

(512) 936-1200 or (800) 983-9933 Main Number
(512) 320-8270 General Fax Number

National Association of Crime Victim Compensation Board website has links to
each state's CVC program
www.nacvcb.org
